

AMENDED IN ASSEMBLY JANUARY 25, 2010

AMENDED IN ASSEMBLY JANUARY 19, 2010

AMENDED IN ASSEMBLY JULY 13, 2009

AMENDED IN SENATE APRIL 14, 2009

SENATE BILL

No. 205

Introduced by Senator Hancock

February 23, 2009

An act to amend the heading of Article 1 (commencing with Section 12000) of Chapter 1 of Part 8 of Division 1 of Title 1 of, and to add Section 12001.5 to, the Education Code, relating to education finance, *and declaring the urgency thereof, to take effect immediately.*

LEGISLATIVE COUNSEL'S DIGEST

SB 205, as amended, Hancock. Education finance: federal tax credit bond volume cap.

Existing federal law authorizes the Internal Revenue Service to publish the maximum face value amount of qualified school construction bonds, as defined, that may be allocated by the United States Department of the Treasury to each state pursuant to the federal American Recovery and Reinvestment Act of 2009.

This bill would assign specified amounts of the state's 2009 federal tax credit bond volume cap to the State Department of Education and the California School Finance Authority. The bill would exempt the assignment and distribution of the federal tax credit bond volume cap under the bill from the rulemaking provisions of the Administrative Procedure Act.

This bill would declare that it is to take effect immediately as an urgency statute.

Vote: ~~majority~~²/₃. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. The heading of Article 1 (commencing with
2 Section 12000) of Chapter 1 of Part 8 of Division 1 of Title 1 of
3 the Education Code is amended to read:

4
5 Article 1. Allocation of Federal Funds and Federal Tax Credit
6 Bond Volume Cap
7

8 SEC. 2. Section 12001.5 is added to the Education Code, to
9 read:

10 12001.5. (a) The Legislature hereby finds and declares that
11 the federal tax credit bond volume cap for qualified school
12 construction bonds designated for the state by the federal American
13 Recovery and Reinvestment Act of 2009 (Public Law 111-5),
14 together with Internal Revenue Service Notice 2009-35 issued
15 pursuant thereto, does not constitute federal moneys, federal funds,
16 or funds of any kind for any purpose under this code.

17 (b) There is hereby assigned to the State Department of
18 Education, seven hundred million dollars (\$700,000,000) of the
19 state's 2009 federal tax credit bond volume cap for qualified school
20 construction bonds, to be further assigned and distributed to or for
21 the benefit of school districts and county offices of education in
22 the state, as the State Department of Education shall determine.

23 (c) There is hereby assigned to the California School Finance
24 Authority, established pursuant to Section 17172, seventy-three
25 ~~million five hundred forty-five thousand dollars (\$73,545,000)~~ of
26 *million five hundred twenty-five thousand dollars (\$73,525,000)*
27 *of the state's 2009 federal tax credit bond volume cap for qualified*
28 *school construction bonds, to be issued for the benefit of charter*
29 *schools, or to be further assigned and distributed to one or more*
30 *issuers in the state for the benefit of charter schools, as the authority*
31 *shall determine.*

32 (d) (1) Any of the state's 2009 federal tax credit bond volume
33 cap for qualified school construction bonds assigned to the State
34 Department of Education pursuant to subdivision (b) that has not
35 resulted in the issuance of qualified school construction bonds by

December 31, 2009, shall be added to the state's volume cap for 2010, in accordance with subsection (e) of Section 54F of the Internal Revenue Code, and assigned as set forth in this section. Those districts and county offices of education that received an assignment from the State Department of Education by December 31, 2009, and notification from the State Department of Education that they were granted an extension to issue bonds through March 31, 2010, shall have an additional 120 days from the effective date of this legislation to issue bonds.

(2) Any of the state's federal tax credit bond volume cap for qualified school construction bonds originally assigned to the State Department of Education in 2009 pursuant to subdivision (b) that does not result in the issuance of qualified school construction bonds within 120 days from the effective date of this legislation shall revert to the state, and shall be reallocated in accordance with the process established pursuant to state law for allocating the 2010 federal tax credit bond volume cap for qualified school construction bonds.

(e) (1) Any of the state's 2009 federal tax credit bond volume cap for qualified school construction bonds assigned to the California School Finance Authority pursuant to subdivision (c) that has not resulted in the issuance of qualified school construction bonds by December 31, 2009, shall be added to the state's volume cap for 2010, in accordance with subsection (e) of Section 54F of the Internal Revenue Code, and allocated as set forth in this section. Any charter school that received an allocation from the California School Finance Authority prior to December 31, 2009, shall retain its allocation pursuant to the resolution of the California School Finance Authority.

(2) Any of the state's federal tax credit bond volume cap for qualified school construction bonds originally allocated to the California School Finance Authority in 2009 pursuant to subdivision (c) that does not result in the issuance of qualified school construction bonds by December 31, 2010, shall be retained by the California School Finance Authority, and reallocated in accordance with the qualified school construction bond parameters established by the California School Finance Authority.

(f) Notwithstanding any other provision of law, in order to further the purposes of the federal American Recovery and Reinvestment Act of 2009, and allow school districts to issue

1 federal tax credit bonds as expeditiously as possible, the assignment
2 and distribution of the federal tax credit bond volume cap by the
3 State Department of Education and the California School Finance
4 Authority under this section are exempt from the rulemaking
5 provisions of the Administrative Procedure Act (Chapter 3.5
6 (commencing with Section 11340) of Part 1 of Division 3 of Title
7 2 of the Government Code).

8 (g) Any actions taken with regard to and distributions of federal
9 tax credit bond volume cap made by the State Department of
10 Education or the California School Finance Authority pursuant to
11 this section with respect to the state's federal tax credit bond
12 volume cap are hereby ratified and approved.

13 *SEC. 3. This act is an urgency statute necessary for the*
14 *immediate preservation of the public peace, health, or safety within*
15 *the meaning of Article IV of the Constitution and shall go into*
16 *immediate effect. The facts constituting the necessity are:*

17 *In order to access federal stimulus tax credits at the earliest*
18 *possible opportunity, it is necessary that this act take effect*
19 *immediately.*